ER 67-4225 (USIB)

5 September 1967

MEMORANDUM FOR: The Deputy Director

SUBJECT: USIB Rules for Access to Sensitive Information

1. I agree with the findings and recommendations in your memorandum of 30 August, subject as above.

2. When the new wording has been worked out, I would like to pass on it before final publication.

3. May I suggest that part of our problem is not only in the juxtaposition of regulation and waiver provisions but also in the effort to get too specific, or conversely not specific enough. For example, we say "subject to a foreign power", when in most cases we really mean "subject to a hostile or unfriendly foreign power". Also, this question of lumping together close relatives by spelling out "parents, brothers, sisters, grandparents, we well as children and grandchildren" is to me rather pointless. If a particular relative is a "bad one", then that creates a problem. But I see little point in trying to equate my affection for my brother whom I see once every couple of years with that for my son whom I see far more frequently and of whom I am very fond.

4. In short, let us do what you recommend but let us stop trying to define what cannot properly be defined.

Richard Helms
Director

Attachment

USIB

1967

DDCI Copy

30 August 1967

MEMORANDUM FOR: The Director

SUBJECT : USIB Rules for Access to Sensitive Information

1. Attached is a file of correspondence involving letters from Senator Tydings, John Macy and various others with relation to the USIB regulation that an individual must be a native-born United States citizen in order to have access to sensitive information. I recommend you read the letters in full.

2. We talked about this the other day. It is too late for "Herpecide" so far as killing the Security Committee's recommendation that brought this on. The reason is that that recommendation was incorporated in a DCID (#1/14) approved on 23 June 1967.

3. General Carroll and I agree that the primary problem is one of language and juxtaposition of waiver procedures in the regulations. In accordance with your instruction of the other day I am initiating action to get this corrected. Nevertheless I think you should know the following:

a. The relevant former criteria wereworded as follows:

(1) "The person should* be a native-born United States citizen. The members of his immediate family should be United States citizens."

For the purposes of this Directive "immediate family" is defined as including spouse, parents, brothers and sisters.

(2) Further on in the previous regulations was a statement to the effect that exceptions could be made by a Board member or his properly designated representative in case of compelling need.

* Underlining added

(3) The new regulation incorporated in DCID 1/14 states, "The individual shall* be a United States citizen by birth. The members of his immediate family shall be United States citizens."

Further down the regulation states, "For purposes of these criteria, immediate family is interpreted to include the spouse, and the following relatives of both the individual and* the spouse: "parents, brothers, sisters and children. Half and step relatives are considered as having full relationship."

The relevant CIA regulations for clearance for personnel for duty within CIA state as follows: "Staff employees, staff agents, military and civilian personnel detailed or assigned to CIA and placed in staff positions, and consulants . . . . . be persons:

"(b) Who have been citizens of the United States for at least five years.

"(c) Whose spouses are citizens of the United States.

"(d) Who have no relatives or persons to whom they are bound by close ties of affection or obligation, subject to a foreign power. For the purpose of this paragraph, relatives will be interpreted to include for both applicant and spouse: parents, brothers, sisters, grandparents, as well as children and grandchildren. . . . . ."

4. As you can see from the above, the USIB regulations which are incorporated in the DCID are susceptible of being taken out of context, detached from the waiver provisions and made to look very bad indeed. Also, they are quite imperative whereas formerly they were more advisory. It is no wonder that, when converted to public use, they have given rise to troublesome misunderstandings. I foresaw this problem but didn't have sufficient courage of conviction to insist

*Underlining added.

on more permissive language largely because I thought that the rules would stay within the intelligence community, be interpreted liberally as they always have been, and the exception would permit adequate latitude. I was wrong. All the rest of us concerned were wrong, too, and I am initiating corrective action in concert with Joe Carroll.

5. I think that our CIA regulations can stand but I would feel better about them if the provision for spouses being citizens were to be modified to the extent of adding a clause to the effect that spouses who have declared intent of becoming U.S. citizens would be acceptable subject to adequate security investigation.

6. After you have read the above and returned it to me with your comment, I will consult with the Executive Director and instruct the Chairman of the USIB Security Committee to initiate modifications that will minimize the likelihood of situations such as described in Senator Tydings' temperate and well-considered letter.

[redacted]

Rufus Taylor
Vice Admiral, U. S. Navy
Deputy Director

Attachment

Distribution:
Orig w/orig DCI comments & attch -- DDCI
1cc -- ExDir w/cy DCI comments & attch.
1cc -- DDS w/cy DCI comments & attch.
1cc -- Dir/Security w/cy DCI comments & attch.

DEFENSE INTELLIGENCE AGENCY
WASHINGTON, D. C. 20301

C-53/DR

30 August 1967

Vice Admiral Rufus L. Taylor
Deputy Director of Central Intelligence
7D60, CIA Headquarters
Washington, D. C. 20505

Dear Rufe:

Per our conversation enclosed are copies of the following correspondence concerning USIB policy governing eligibility for access to special intelligence:

1. Ltr to Mr. John W. Macy, CSC, dtd 12 Jun 67 frm Sen Tydings.
2. Ltr to Asst Sec of Def (Adm), dtd 19 Jul 67 frm Mr. Macy.
3. Memo to Dir, DIA, dtd 8 Aug 67, frm Mr. Liebling, Dir for Security Policy, OSD.
4. Memo to Mr. Plant, Sp Asst to Under Secretary of Army, dtd 8 Aug 67, frm Mr. Liebling.
5. Memo to Mr. Liebling, dtd 28 Aug 67, frm Dir, DIA.

While I feel the actual intent of the policy at issue is appropriate and required by security considerations, I do believe that the manner in which the policy is expressed is unduly restrictive, not in consonance with actual practice, and highly vulnerable to the criticism expressed by Senator Tydings and Mr. Macy.

I recommend that the Security Committee of USIB be directed to re-examine the language used in pertinent security directives in light of the understandable concern expressed by Senator Tydings and Mr. Macy.

JOSEPH F. CARROLL
Lieutenant General, USAF
Director

5 Enclosures a/s
in para. 1

CONFIDENTIAL

DEFENSE INTELLIGENCE AGENCY
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JOSEPH F. CARROLL
Lieutenant General, USAF
Director

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GROUP-4
Downgraded at 3 year intervals; declassified after 12 years

Next 2 Page(s) In Document Exempt

UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

JUL 1 9 1967

YOUR REFERENCE

Honorable Solis Horwitz
Assistant Secretary of Defense
The Pentagon
Washington, D.C. 20301

Dear Mr. Horwitz:

Enclosed is a copy of Civilian Personnel Regulation 950-19 of the Department of the Army which appears to me to authorize a policy of blanket discrimination because of national origin in certain competitive service positions in the Department of the Army.

I am also enclosing a copy of a letter dated June 12, 1967 from Senator Tydings, which I have acknowledged, asking me whether this practice represents current policy.

I would appreciate your reviewing the Civilian Personnel Regulation in question with a view towards having it changed to conform with Executive Order 10925.

I do not see how we can defend a regulation which automatically excludes, apparently without investigation being conducted, any naturalized citizen, irrespective of his place of birth. That part of CPR 950-19 which requires that one's relatives be citizens of the United States appears to me to be particularly objectionable.

The only elective office in the United States barred to naturalized citizens is the office of President of the United States. If United States Senators, Representatives, and Supreme Court Justices can serve even though they be naturalized citizens, it is inconceivable to me that the fact that a citizen was born in another country would automatically exclude him from a substantial number of positions in the Executive Branch.

The Ervin Bill, now pending in Congress, would apply criminal sanctions to any officer of the Executive Branch who engaged in such discriminatory practices.

I hope that action in this matter can be expedited so that I can report to Senator Tydings that the regulation has been changed.

Sincerely yours,

John W. Macy, Jr.
Chairman

Enclosures

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

ADMINISTRATION

8 AUG 1967

MEMORANDUM FOR Lieutenant General Joseph F. Carroll,
Director, Defense Intelligence Agency

SUBJECT: Clearance Criteria Governing Eligibility for Access to Special Intelligence

Attached is a letter from Mr. John Macy, Chairman of the Civil Service Commission, and a letter which he received from Senator Joseph D. Tydings. Both writers draw attention to the Department of the Army's Civilian Personnel Regulation 950-19, which I understand accurately reflects United States Intelligence Board (USIB) criteria, governing eligibility for access to special intelligence information. I am advised that a recently adopted USIB directive on uniform personnel security standards and practices governing access to sensitive compartmented information also contains these criteria.

Specifically, Senator Tydings wishes to learn whether birth in any foreign country solely and automatically disqualifies civilian personnel for certain sensitive security positions and, if such is the policy, what is the rationale supporting the policy. Chairman Macy also seriously questions the policy that members of a person's immediate family must be United States citizens and urges that the policy be changed. It would be appreciated if you would give consideration to these questions and advise whether the criteria can be changed to avoid the objections raised by Senator Tydings and Chairman Macy. If the criteria cannot be changed, it would be appreciated if you would furnish the rationale for its continuance.

I am attaching for your information a memorandum that I have sent to the Special Assistant to the Under Secretary of the Army, requesting comment on the desirability of changing the Army Civilian Personnel Regulation.

Secretary Horwitz wishes to respond to the questions posed by Mr. Macy and Senator Tydings. I will appreciate receiving your reply as soon as possible.

Joseph J. Liebling
Director for Security Policy

Attachments

Room 6112
Office of the Chairman

United States Senate

COMMITTEE ON THE JUDICIARY

June 12, 1967

To: Mr. K. Johnson

The Honorable John W. Macy
Chairman,
Civil Service Commission
1900 E Street
Washington, D. C. 20415

Dear Mr. Chairman:

For many months my office has been concerned with the equal employment opportunity appeal of [redacted] STAT of the Army Map Service who alleged that his birth in Austria has been used to deny him a security clearance required for a position for which he was otherwise qualified. Mr. Hilsberg's appeal has been adjudicated by the Equal Employment Opportunity Officer, Department of the Army and the Civil Service Commission Board of Appeals and Review.

It is not my intention to argue the particular issues of these individual decisions. They do, however, raise an over-riding issue which I belive requires further clarification.

Both decisions made reference to Title VII of the Civil Rights Act of 1964, and specifically to Section 703 (g) of the Act. That section, as you know, declares that it shall be a violation of the Act to refuse to hire or to discharge anyone who cannot fulfill "any requirement imposed in the interest of the national security of the United States under any security program..." This declaration protects the security interest of the United States but I do not believe it was designed to legalize irrational discrimination.

Consequently, could you specifically advise me whether current policy allows certain sensitive security clearance to be refused an individual solely because of birth in any foreign country.

No one would deny that one having relatives in certain foreign countries or whose adult life is not open to inspection

because he lived in certain foreign countries could pose security problems. Either situation is irrelevant, however, to the specific question posed above. It would seem that a person merely born abroad would not pose from that fact alone, a security problem. His life would have to be examined. It might be that he has no relatives abroad, and he might have come to the United States before reaching manhood. Parenthetically, that is the case with STATOTHR.

The issue I raise is whether foreign birth automatically disqualifies one for certain sensitive security positions. If such is the policy, I wish to know the basis for it.

Sincerely,

Joseph D. Tydings

JDT:afc